

### **REMARKS**

Claims 1, 8, 9, 11, 14, 15, 17-21, 24, 34, 43, 56, and 78-104 were previously pending and under examination. The Examiner indicated claims 1, 8, 9, 11, 14, 15, 17-21, 24, 43, 56, and 83-99 are allowed. By this Amendment claims 34 and 100 are currently amended, and no new claims are added. Upon entry of this Amendment, claims 1, 8, 9, 11, 14, 15, 17-21, 24, 34, 43, 56, and 78-104 remain pending and under examination. No new matter has been introduced.

#### *Continued Examination*

Applicant thanks the Examiner for entering Applicant's Amendment filed October 18, 2006.

#### *Information Disclosure*

Applicant acknowledges the Examiner is considering the Information Disclosure Statement filed December 7, 2006.

#### *Response to Amendment/Arguments*

Applicant acknowledges and thanks the Examiner for withdrawing the previous rejection of all claims under 35 U.S.C. § 103.

#### *Drawings*

The drawings filed January 18, 2002, have been accepted by the Examiner.

#### *Interview Summary*

Applicant previously filed a response to the Interview Summary indicated in the Office Action on February 26, 2007.

#### **Rejection Under 35 U.S.C. § 112, First Paragraph**

The Examiner rejected claims 34, 81, 82, and 100-104 under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the

application was filed, had possession of the claimed invention. Claim 34 is an independent claim, from which each of claims 81, 82 and 100-104 depend.

According to the Examiner, the specification has only identified a few specific malignant B cell surface antigens which are upregulated in response to immunostimulatory CpG oligonucleotide. The Examiner has indicated that the surface antigens upregulated by CpG oligonucleotide which are explicitly identified in the specification (e.g., CD19, CD20, CD22) meet the written description provision of 35 U.S.C. § 112, first paragraph (see Office Action, page 5).

Without acquiescing to the Examiner's position, and merely in order to expedite prosecution, Applicant has amended claim 34 to recite specific malignant B cell surface antigens (CD19, CD20 and CD22) described in the specification. Support for this amendment is found, for example, in claims 78-80 currently pending, and in the specification at least on page 11, lines 1-9. No new matter has been added. Claims 81, 82, and 100-104 included in this rejection depend from claim 34; therefore the current amendment to claim 34 overcomes the rejection pertaining to these claims.

Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 34, 81, 82, and 100-104 under 35 U.S.C. § 112, first paragraph, for alleged lack of written description.

The Examiner also rejected claims 34, 81, 82, and 100-104 under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains to make and/or use the invention. The Examiner indicated that an amendment to the claims to the specific tumor antigens shown to be upregulated in response to the immunostimulatory CpG oligonucleotide would obviate these rejections.

As noted above, Applicant has amended claim 34 to recite specific malignant B cell surface antigens (CD19, CD20 and CD22) described in the specification. Support for this amendment is found, for example, in claims 78-80 currently pending, and in the specification at least on page 11, lines 1-9. No new matter has been added.

The Examiner further rejected claim 100 for the recitation that the surface antigen is not expressed on the malignant B cells. According to the Examiner, if the surface antigen is not expressed on the malignant B cells, it is unclear how the method would result in treatment as the therapeutic antibodies target the surface antigens (see Office Action, page 7).

Applicant respectfully disagrees. As disclosed in the specification on page 12, lines 1-4, an inverse correlation was found between baseline expression of specific cell surface antigens and their expression after exposure to immunostimulatory nucleic acids and that the most significant increase in expression was found in samples that had the lowest (or no) baseline levels [emphasis added]. Therefore it is the immunostimulatory CpG oligonucleotide that upregulates the expression of the surface antigens, thereby allowing treatment using an antibody that recognizes the upregulated surface antigens. Applicant has amended claim 100 to recite that the surface antigen is not expressed in absence of the administering to the subject the immunostimulatory CpG oligonucleotide. Support for this amendment is found at least on page 12, lines 1-4.

Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 34, 81, 82, and 100-104 under 35 U.S.C. § 112, first paragraph, for alleged lack of enablement.

#### Claim Objections

The Examiner objected to claims 78-80 as being dependent upon a rejected base claim. The amendment to claim 34 overcomes this objection to the claims.


Accordingly, Applicant respectfully requests withdrawal of the objection to claims 78-80.

**CONCLUSION**

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the application in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,

By 

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